

FILE COPY

STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DENIAL
OF A LICENSE TO PRACTICE
DENTISTRY OF

LEON OLIVER CUMMINGS, D.D.S.,
APPLICANT.

FINAL DECISION
AND ORDER
LS9802121DEN

The State of Wisconsin, Dentistry Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Dentistry Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 6th day of May 1998.


A Member of the Board

**STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD**

**IN THE MATTER OF THE DENIAL OF A
LICENSE TO PRACTICE DENTISTRY**

**PROPOSED DECISION
LS-9802121-DEN**

**LEON OLIVER CUMMINGS, D.D.S.,
APPLICANT.**

PARTIES

The parties in this matter under § 227.44, Stats., and for purposes of review under § 227.53, Stats., are:

Leon Oliver Cummings, D.D.S.
2225 Edgewood Drive
Grafton, WI 53024

Dentistry Examining Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

This proceeding was commenced by the filing of a Notice of Hearing on February 16, 1998. On March 5, 1998, the Dentistry Examining Board issued an *Order Reinstating Stay of Suspension*. As a result of the Board's actions, Dr. Cummings by Attorney Ralph Topinka, Quarles & Brady, filed a letter in this matter on March 17, 1998, in which he withdrew his request for a hearing.

Based upon the record herein, the Administrative Law Judge recommends that the Dentistry Examining Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Leon Oliver Cummings, (d.o.b. 12/02/36) is duly licensed in the state of Wisconsin to practice dentistry, license #5000027, which was first granted on June 12, 1964. Applicant's latest address on file with the Department of Regulation is 2225 Edgewood Drive, Grafton WI 53024.

2. On January 10, 1997, The Dentistry Examining Board suspended Dr. Cummings' license to practice dentistry for a period of not less than five years. The Order provided for a stay of the suspension at three month intervals, conditioned upon Dr. Cummings' compliance with certain terms and conditions.

3. On January 21, 1998, the Board suspended Dr. Cummings' license to practice dentistry for failure to comply with certain terms and conditions contained in its January 10, 1997, Final Decision and Order.

4. On March 4, 1998, Dr. Cummings appeared before the Board in support of his written request for reinstatement of his license. Based upon Dr. Cummings' request and presentation, the Board voted to grant a stay of suspension of Dr. Cummings' license. On March 5, 1998, the Dentistry Examining Board issued an *Order Reinstating Stay of Suspension*.

5. On March 17, 1998, Dr. Cummings filed a letter in this matter in which he withdrew his request for a hearing.

CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction in this matter pursuant to Chapter 447, Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that this proceeding, be and hereby is, dismissed.

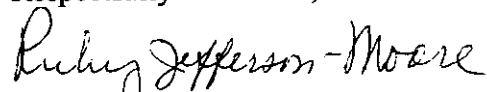
OPINION

This proceeding was commenced by the filing of a Notice of Hearing on February 16, 1998. On March 4, 1998, Dr. Cummings appeared before the Board in support of his written request for reinstatement of his license. Based upon Dr. Cummings' request and presentation, the Board voted to grant a stay of suspension of Dr. Cummings' license. On March 5, 1998, the Board issued an *Order Reinstating Stay of Suspension*. As a result of the Board's decision, Dr. Cummings by Attorney Ralph Topinka, Quarles & Brady, filed a letter in this matter on March 17, 1998, in which he withdrew his request for a hearing.

Based upon on the record herein, the Administrative Law Judge recommends that the Dentistry Examining Board adopt as its final decision in this matter, the proposed Findings of fact, Conclusions of Law and Order as set forth herein.

Dated at Madison, Wisconsin this 18th day of March 1998.

Respectfully submitted,



Ruby Jefferson-Moore
Administrative Law Judge

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE DENTISTRY EXAMINING BOARD

In the Matter of the Denial of a License to Practice Dentistry of

Leon Oliver Cummings, D.D.S.,

AFFIDAVIT OF MAILING

Applicant.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On May 8, 1998, I served the Final Decision and Order dated May 6, 1998, LS9802121DEN, upon the Applicant Leon Oliver Cummings' attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Applicant's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 158 879.

Ralph Topinka, Attorney
One S. Pinckney Street
P.O. Box 2113
Madison WI 53701-2113



Kate Rotenberg

Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 8th day of May, 1998.



Notary Public, State of Wisconsin

My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: RALPH TOPINKA ATTY

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 5/8/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935